## REMARKS

The Office Action dated September 19, 2006, has been received and carefully noted. The above amendments to the claims, and the following remarks, are submitted as a full and complete response thereto.

Claims 1-34 and 36-47 are currently pending in the application, of which claims 1, 24, and 47 are independent claims. Claims 1-17, 21-34, 37-40, and 44-47 have been amended to more particularly point out and distinctly claim the invention. No new matter has been added. Claims 1-34 and 36-47 are respectfully submitted for consideration.

Claims 1-4, 6, 10-28, 33-34, and 36-47 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application Publication No. 2005/0108156 of Sumino et al. ("Sumino"). Applicant respectfully submits that the claims recite subject matter that is neither disclosed nor suggested by Sumino.

Claim 1, upon which claims 2-23 depend, is directed to a method including establishing a mobile packet data connection for a subscriber. The method also includes establishing, over said established mobile packet data connection, a streaming connection comprising a continuous media stream configured for real-time playback between said subscriber and a streaming source. The method further includes terminating the streaming connection between said subscriber and said streaming source. The method additionally includes measuring a duration of said continuous media stream. The method

also includes charging said streaming connection based on said measured duration of said continuous media stream.

Claim 24, upon which claims 25-34 and 36-46 depend, is directed to a mobile packet radio system. The system includes a streaming source. The system also includes a subscriber configured to receive streaming data from said streaming source. The system further includes a first establishment unit configured to establish a mobile packet data connection for said subscriber. The system additionally includes a second establishment unit configured to establish, over said established mobile packet data connection, a streaming connection comprising a continuous media stream configured for real-time playback between said subscriber and said streaming source. The system also includes a termination unit configured to terminate said streaming connection between said subscriber and said streaming source. The system further includes a measurement unit configured to measure a duration of said continuous media stream. The system additionally includes a charger configured to charge said streaming connection based on said measured duration of said continuous media stream.

Claim 47 is directed to a mobile packet radio system including a streaming source. The system also includes a subscriber configured to receive streaming data from said streaming source. The system further includes first establishing means for establishing a mobile packet data connection for said subscriber. The system additionally includes second establishing means for establishing, over said established mobile packet data connection a streaming connection comprising a continuous media stream configured for

real-time playback between said subscriber and said streaming source. The system also includes terminating means for terminating said streaming connection between said subscriber and said streaming source. The system further includes measuring means for measuring a duration of said continuous media stream. The system additionally includes a charger for charging said streaming connection based on said measured duration of said continuous media stream.

Applicant respectfully submits that Sumino fails to disclose or suggest all of the elements of any of the presently pending claims.

Sumino generally relates to a communication control method in a connection-type device, a related relay device, and an accounting management device. As explained at paragraphs 0005, and 0038-0039, Sumino discusses an arrangement enabling an appropriate communication charge to be made on the basis of an amount of data transmitted even when the communication is prematurely discontinued. The communication is HTTP communication on top of a TCP connection. The amount of data is measured on the basis of the size of each packet and the number of the packets.

Sumino, fails to teach or suggest a streaming source or continuous streaming connection. Rather, Sumino discusses HTTP communication on top of a TCP connection, that is to say, a conventional Web-browsing session, as can be seen at paragraph [0040] of Sumino. Furthermore, Sumino fails to teach or suggest time-based charging. Rather, Sumino discloses charging based on the amount of data transmitted or the size of each packet and the number of the packets, that is to say, volume-based

charging, as can be seen at paragraphs [0040] and [0055]. Indeed, Sumino does not even mention the word "streaming."

Claim 1 recites "establishing, over said established mobile packet data connection, a streaming connection comprising a continuous media stream configured for real-time playback between said subscriber and a streaming source." Applicant respectfully submits that Sumino does not disclose or suggest at least this feature of claim 1.

As noted above, Sumino discloses an HTTP connection over TCP, which is not equivalent to the claimed "continuous media stream configured for real-time playback." Accordingly, it is respectfully submitted that Sumino fails to disclose or suggest at least this feature of claim 1.

Claim 1 also recites "charging said streaming connection based on said measured duration of said continuous media stream." Applicant respectfully submits that Sumino fails to disclose or suggest at least this feature of claim 1.

As noted above, Sumino charges based on the amount of transferred data, not upon the duration of the usage. Accordingly, it is respectfully submitted that Sumino fails to disclose or suggest at least this additional feature of claim 1.

Independent claims 24 and 47 each have their own scope, but each recite similar limitations to those discussed above with regard to claim 1. Accordingly, it is respectfully submitted that each of claims 24 and 47 recite subject matter that is neither disclosed nor suggested in Sumino. It is, therefore, respectfully requested that the rejection of claims 1, 24, and 47 be withdrawn.

Claims 2-4, 6, 10-26, 28, 33-34, and 36-46 depend respectively from, and further limit, claims 1 and 24. It is, thus, respectfully submitted that each of claims 2-4, 6, 10-26, 28, 33-34, and 36-46 recites subject matter that is neither disclosed nor suggested by Sumino. Therefore, it is respectfully requested that the rejection of claims 2-4, 6, 10-26, 28, 33-34, and 36-46 be withdrawn.

Claims 5 and 9 were rejected under 35 U.S.C. 103(a) as being unpatentable over Sumino in view of U.S. Patent Application Publication No. 2003/0216145 of Cox et al. ("Cox"). The Office Action took the position that Sumino discloses all of the features of claims 5 and 9 except "wherein said start further comprises recognizing a play message." The Office Action cited Cox to remedy this deficiency of Sumino. Applicant respectfully submits that the claims recite subject matter that is neither disclosed nor suggested by the combination of Sumino and Cox.

Sumino is discussed above. Cox generally relates to a method of providing directional assistance to a telephone subscriber. More particularly, Cox discloses providing traveling directions from one location to another to a telephone subscriber. In itself, Cox has no relevance to mobile streaming services or their billing arrangements, and thus is non-analogous art. Nevertheless, Cox mentions a "play message" that the Office Action used to reject the then-pending claims 5 and 9. However, this "play message" actually refers to a pre-recorded message played by a voice response unit, rather than a streaming protocol message signaling the start of a streaming connection.

Claims 5 and 9, which depend from claim 1, recite "a streaming protocol play message signaling said start of said continuous media stream." Applicant respectfully submits that the combination of Sumino and Cox fails to disclose at least this feature of claims 5 and 9 in addition to the deficiencies identified above with regard to claim 1, from which claims 5 and 9 depend. Accordingly, it is respectfully requested that the rejection of claims 5 and 9 be withdrawn.

Claims 7-8 and 29-32 were rejected under 35 U.S.C. 103(a) as being unpatentable over Sumino in view of U.S. Patent Application Publication No. 2002/0169868 of Lopke et al. ("Lopke"). The Office Action took the position that Sumino discloses all of the features of claim 2, but cited Lopke for additional features of claims 7-8 and 29-32 related to the use of time stamps. Applicant respectfully submits that claims 7-8 and 29-32 recite subject matter that is neither disclosed nor suggested by the combination of Sumino and Lopke.

Sumino is discussed above. Lopke generally relates an interactive remote monitoring of client page render times on a per user basis. Lopke, therefore, relates to rendering web pages and again has, as such, no relevance to mobile streaming services or their billing arrangements and, thus, is non-analogous art. Nevertheless, Lopke mentions time stamps, which the Office Action used to reject the pending claims 7-8 and 29-32. Yet, these time stamps are used to approximate web page render times, rather than to calculate streaming connection durations.

Claims 7 recites "based on said time stamps, calculating said duration of said continuous media stream" and claims 8 and 29-32, which each have their own scope, recite similar features. It is respectfully submitted that the combination of Sumino and Lopke fails to disclose or suggest at least these features of claims 7-8 and 29-32.

As noted above, Lopke mentions the use of time stamps, but the time stamps are not disclosed as having any relation to the subject matter of claims 7-8 and 29-32 as they presently stand. Furthermore, Lopke, unsurprisingly, does not remedy the above-identified deficiencies of Sumino with respect to claims 1 and 24, from which claims 7-8 and 29-32 respectively depend. It is, therefore, respectfully submitted that the combination of Sumino and Lopke fails to disclose or suggest all of the elements of claims 7-8 and 29-32, and it is respectfully requested that the rejection of claims 7-8 and 29-32 be withdrawn.

For the reasons explained above, it is respectfully submitted that each of claims 1-34 and 36-47 recites subject matter that is neither disclosed nor suggested in the cited art. It is, therefore, respectfully requested that all of claims 1-34 and 36-47 be allowed, and that this application be passed to issue.

If for any reason the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact, by telephone, Applicant's undersigned attorney at the indicated telephone number to arrange for an interview to expedite the disposition of this application.

In the event this paper is not being timely filed, Applicant respectfully petitions for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account 50-2222.

Respectfully submitted,

Peter Flanagan
Registration No. 58,178

**Customer No. 32294**
SQUIRE, SANDERS & DEMPSEY LLP
14$^{TH}$ Floor
8000 Towers Crescent Drive
Tysons Corner, Virginia 22182-2700
Telephone: 703-720-7800
Fax: 703-720-7802

PCF:kzw